IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 13010 of 2003

Date of Decision: 27.10.2004

BABU MASHA

Versus

UNION OF INDIA

(for full cause title, see next sheet)

Coram:

The Hon'ble Mr.Justice Bhawani Singh, Chief Justice

The Hon'ble Mr.Justice H.K.Rathod, Judge

Whether approved for reporting?

Appearance:

1. Special Civil Application No. 13010 of 2003

MR PH PATHAK for Petitioner.

MR MUKESH A PATEL for Respondents.

PER: BHAWANI SINGH, CHIEF JUSTICE (ORAL):-

Petitioner was pointsman at Jetalsar Junction, Indian Railways. He was medically decategorized on 2.4.1997. Alternative service was not accepted, therefore, he sought compassionate appointment for his son. However, the General Manager rejected his request. The petitioner challenged the action before the Central

Administrative Tribunal (CAT) by filing OA No. 42 of 1998. However, the CAT, by order dated 2.8.2000 rejected it.

Whether reporters of Local Papers may be allowed to see the Judgment?ep rters of Local Papers may be allowed to see the Judgment?eporters of Local Pa ers may be allowed to see the Judgment?eporters of Local Papers may be allowe to see the Judgment?eporters of Local Papers may be allowed to see the Judgm nt?eporters of Local Papers may be allowed to see the Judgment?eporters of L cal Papers may be allowed to see the Judgment?eporters of Local Papers may be allowed to see the Judgment?eporters of Local Papers may be allowed to see th Judgment?eporters of Local Papers may be allowed to see the Judgment?eporte s of Local Papers may be allowed to see the Judgment?eporters of Local Papers may be allowed to see the Judgment?eporters of Local Papers may be allowed to see the Judgment?eporters of Local Papers may be allowed to see the Judgment? eporters of Local Papers may be allowed to see the Judgment?eporters of Local Papers may be allowed to see the Judgment?eporters of Local Papers may be all wed to see

From perusal of the judgment, the CAT rejected the Original Application on the ground that the claim for compassionate appointment is raised by the petitioner and not his son who is not impleaded as petitioner in the Original Application, meaning thereby, the OA suffers from non joinder of necessary party.

Giving consideration to the matter in the context of western railway instructions dated 22.2.2000 placed for our consideration by Shri Pathak, it seems clear that the application for appointment on compassionate ground to an eligible ward can be made by the employee who is allowed to opt for retirement, that is why, the request made by the petitioner has been rejected by the General Manager. Therefore, for maintaining the OA, petitioner is an aggrieved person and the CAT could examine the merits of the application in absence of the son Rohit. Son Rohit could be made a party to the OA but without impleading him, the matter could be examined on merits.

Therefore, petition is allowed. Matter is remanded to the CAT for deciding the OA on merits in accordance with law. Rule is made absolute in terms indicated hereinabove with no order as to costs.

[BHAWANI SINGH]
CHIEF JUSTICE

[H.K.RATHOD]
JUDGE

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